

**KRS CHAPTER 17
PUBLIC SAFETY
(Selected Sections)**

SEX OFFENDER REGISTRATION

KRS 17.500 Definitions for KRS 17.500 to 17.580

As used in KRS 17.500 to 17.580:

- (2) **"Cabinet"** means the Justice Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, **"criminal offense against a victim who is a minor"** means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 - 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 - 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 - 3. Sex crime;
 - 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 - 5. Human trafficking involving commercial sexual activity as set forth in KRS 529.100;
 - 6. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 - 7. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 - 8. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 - 9. Unlawful transaction with a minor in the first degree as set forth in subsection (1) (a) of KRS 530.064.
 - 10. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
 - 11. Any attempt to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph; and
 - 12. Solicitation to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) **"Law enforcement agency"** means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) **"Registrant"** means:
 - (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 - 1. A sex crime; or
 - 2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed.
- (6) **"Registrant information"** means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;

- (7) "**Residence**" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "**Sex crime**" means:
- (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1) (a), 531.310, or 531.320;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "**Sexual offender**" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "**Sexually violent predator**" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
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- (12) "**Victim**" has the same meaning as in KRS 421.500.

KRS 17.510 Registration system for adults who have committed sex crimes or crimes against minors -- Persons required to register -- Manner of registration -- Penalties -- Notifications of violations required

- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
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- (6) Any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
- (7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "**employment**" or "**carry on a vocation**" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "**student**" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional

institution, or institution of higher education.

- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10)(a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
 - (b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
 - 2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.

- (11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13)(a) The Justice Cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the Justice Cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under subsection (10)(a) and (b) of this section, the Justice Cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The Justice Cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.

**KRS 17.545 Registrant prohibited from residing near school or day care facility –
Penalties – Exception**

- (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility. The measurement shall be taken in a straight line from the nearest property line of the school to the nearest property line of the registrant's place of residence.
- (2) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on the clearly defined grounds of a high school, middle school, elementary school, preschool, or licensed day care facility, except with the advance written permission of the school principal, the school board, or the day care director that has been given after full disclosure of the person's status as a registrant or sex offender from another state and all registrant information as required in KRS 17.500.
- (3) For purposes of this section:
 - (a) The registrant shall have the duty to ascertain whether any property listed in subsection (1) of this section is within one thousand (1,000) feet of the registrant's residence; and
 - (b) If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.
- (4) Any person who violates subsection (1) of this section shall be guilty of:
 - (a) A Class A misdemeanor for a first offense; and
 - (b) A Class D felony for the second and each subsequent offense.
- (5) Any registrant residing within one thousand (1,000) feet of a high school, middle school,

elementary school, preschool, publicly owned playground, or licensed day care facility on the effective date of this Act shall move and comply with this section within ninety (90) days of the effective date of this Act, and thereafter, shall be subject to the penalties set forth under subsection (3) of this section.

- (6) This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in an elementary or secondary education program.

KRS 17.547 Persons immune from suit for good faith conduct under KRS 17.500 to 17.580 and 17.991

The following shall be immune from suit for good faith conduct under KRS 17.500 to 17.580 and 17.991:

- (1) Law enforcement agencies including the Justice Cabinet;

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- (5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.

KRS 17.549 Making a false statement to a law enforcement officer – Harboring a registrant

- (1) A person shall be guilty of making a false statement to a law enforcement official when he or she intentionally misleads any law enforcement official regarding a noncompliant registrant.
- (2) A person shall be guilty of harboring when he or she intentionally allows a registrant to reside at his or her residence to avoid registration if the address is not the address the registrant listed as his or her residence address.
- (3) For the purposes of this section, law enforcement officials include the Attorney General, elected sheriffs, deputy sheriffs, city police officers, county police officers, state police officers, probation and parole officers, state and federal prosecutors, and investigators employed by any of these officers.
- (4) A person who violates this section shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for each subsequent offense.

KRS CHAPTER 202A
HOSPITALIZATION OF THE MENTALLY ILL
(Selected Sections)

KRS 202A.011 Definitions for chapter

As used in this chapter, unless the context otherwise requires:

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- (2) "**Danger**" or "**threat of danger to self, family, or others**" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;
- (3) "**Cabinet**" means the Kentucky Cabinet for Health Services;
- (4) "**Psychiatric facility**" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

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- (6) "**Hospital**" means:
 - i. A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or individuals with an intellectual disability;
 - ii. A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or individuals with an intellectual disability;

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- (8) "**Least restrictive alternative mode of treatment**" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;
- (9) "**Mentally ill person**" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

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- (12) "**Qualified mental health professional**" means:
 - i. A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - ii. A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - iii. A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;
 - iv. A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general

hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program; or

- v. A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

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KRS 202A.026 Criteria for involuntary hospitalization

No person shall be involuntarily hospitalized unless such person is a mentally ill person:

- (1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness;
- (2) Who can reasonably benefit from treatment; and
- (3) For whom hospitalization is the least restrictive alternative mode of treatment presently available.

KRS 202A.041 Warrantless arrest and subsequent proceedings

- (1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family, or others if not restrained shall take the individual into custody and transport the individual without unnecessary delay to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation to be conducted by a qualified mental health professional. Upon transport of the person to the hospital or psychiatric facility, the peace officer shall provide written documentation which describes the behavior of the person which caused the peace officer to take the person into custody. If, after evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization, the person shall be released immediately and transported back to the person's home county by an appropriate means of transportation as provided in KRS 202A.101. If, after evaluation, the qualified mental health professional finds that the person meets the criteria for involuntary hospitalization, appropriate proceedings under this chapter shall be initiated. The person may be held pending certification by a qualified mental health professional and implementation of procedures as provided in KRS 202A.028, 202A.031, or 202A.051 for a period not to exceed eighteen (18) hours.
- (2) If, after the evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization and the peace officer has probable cause to believe that the person has committed a criminal offense, the peace officer may swear out a warrant and take the arrested person without unnecessary delay before a judge.

KRS 202A.241 Use of least restrictive level of restraint – Guidelines for restrained person's need for privacy and ability to use telephone

All individuals transporting or holding persons under KRS Chapter 202A, 202B, or 645, shall use the least restrictive level of restraint consistent with the person's needs. The Cabinet for Health Services shall promulgate administrative regulations subject to the provisions of KRS Chapter 13A which shall include guidelines addressing the person's need for privacy, particularly when being restrained, and the person's ability to communicate by phone at the earliest opportunity available.

KRS 202A.251 Prohibition against detention in jail without criminal charges pending - Criminal charges not to be placed to avoid transportation

No person held under the provisions of this chapter shall be detained in jail unless criminal charges are also pending. No peace officer or any other person shall place criminal charges

against a person who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the person to a hospital or psychiatric facility.

KRS 202A.991 Penalties

- (1) Any person who willfully causes or conspires with or assists another in causing:
 - (a) The unwarranted hospitalization of any individual under the provisions of this chapter; or
 - (b) The denial of any individual of any of the rights accorded to him under the provisions of this chapter;
 shall be guilty of a Class A misdemeanor.
- (2) Any person who violates the confidentiality of any mental health record under the provisions of this chapter shall be guilty of a Class B misdemeanor.

**KRS CHAPTER 209
PROTECTION OF ADULTS
(Selected sections)**

KRS 209.020 Definitions for chapter

As used in this chapter, unless the context otherwise requires:

- (1) "**Secretary**" means the secretary of the Cabinet for Families and Children;
- (2) "**Cabinet**" means the Cabinet for Families and Children;
- (3) "**Department**" means the Department for Community Based Services of the Cabinet for Families and Children;
- (4) "**Adult**" means:
 - (a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to manage his own resources or carry out the activity of daily living or protect himself from neglect, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services; or
 - (b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;
- (5) "**Protective services**" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;
- (6) "**Caretaker**" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;
- (7) "**Abuse**" means the infliction of physical pain, mental injury, or injury of an adult;
- (8) "**Exploitation**" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;
- (9) "**Investigation**" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
- (10) "**Emergency**" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;
- (11) "**Emergency protective services**" are protective services furnished an adult in an emergency;
- (12) "**Protective placement**" means the transfer of an adult from his present living arrangement to another;
- (13) "**Court**" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;

- (14) **"Access to records"** means that any representative of the Cabinet for Families and Children actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and
- (15) **"Neglect"** means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare.

KRS 209.030 Administrative regulations – Reports of adult abuse, neglect, or exploitation – Cabinet actions – Status and disposition

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- (3) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.
- (4) An oral or written report shall be made immediately to the cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

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KRS 209.990 Penalties

- (1) Anyone knowingly or wantonly violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.
- (2) Any person who knowingly abuses or neglects an adult is guilty of a Class C felony.
- (3) Any person who wantonly abuses or neglects an adult is guilty of a Class D felony.
- (4) Any person who recklessly abuses or neglects an adult is guilty of a Class A misdemeanor.
- (5) Any person who knowingly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars (\$300) in financial or other resources, or both, is guilty of a Class C felony.
- (6) Any person who wantonly or recklessly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars (\$300) in financial or other resources, or both, is guilty of a Class D felony.
- (7) Any person who knowingly, wantonly, or recklessly exploits an adult, resulting in a total loss to the adult of three hundred dollars (\$300) or less in financial or other resources, or both, is guilty of a Class A misdemeanor.
- (8) If a defendant is sentenced under subsection (5), (6), or (7) of this section and fails to return the victim's property as defined in KRS 218A.405 within thirty (30) days of an order by the sentencing court to do so, or is thirty (30) days or more delinquent in a court ordered payment schedule, then the defendant shall be civilly liable to the victim of the offense or the victim's estate for treble damages, plus reasonable attorney's fees and court costs. Any interested person or entity, as defined in KRS 387.510, shall have standing to bring a civil action on the victim's behalf to enforce this section. The sentencing judge shall inform the defendant of the provisions of this subsection at sentencing.

**KRS Chapter 403
DISSOLUTION OF MARRIAGE; CHILD CUSTODY
(Selected Sections)**

DOMESTIC VIOLENCE AND ABUSE

KRS 403.715 Interpretation of KRS 403.715 to 403.785 by court

KRS 403.715 to 403.785 shall be interpreted to:

- (1) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;
- (2) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;
- (3) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;
- (4) Provide for the collection of data concerning incidents of domestic violence and abuse in order to develop a comprehensive analysis of the numbers and causes of such incidents; and
- (5) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.

KRS 403.720 Definitions for KRS 403.715 to 403.785

As used in KRS 403.715 to 403.785:

- (1) **"Domestic violence and abuse"** means physical injury, serious physical injury, stalking, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;
- (2) **"Family member"** means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;

EDITOR'S NOTE: In Obergefell v. Hodges, handed down in 2015, the Supreme Court of the United States held that same sex couples had a right to marry. Presumably, the definition of family member will now also apply to current and former spouses of same sex marriages.

- (3) **"Foreign protective order"** means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;
- (4) **"Global positioning monitoring system"** means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
- (5) **"Member of an unmarried couple"** means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

EDITOR'S NOTE: In Ireland v. Davis, 957 S.W.2d 310 (Ky App 1997), the Kentucky Court of Appeals ruled that "KRS 403.715 - .785 affords protection to same-sex couples just as they do to the others enumerated therein." The court also stated that "'couples' . . . refers to two people engaged in an intimate relationship and would not include roommates." Although this latter statement is "mere dicta", the court thus gave indication as to how it might rule in a case involving roommates not in an intimate (i.e., sexual) relationship. The court would probably rule the same way in a case involving KRS 431.005.

- (6) **"Order of protection"** means an emergency protective order or a domestic violence order and includes a foreign protective order; and

- (7) **"Substantial violation"** means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

KRS 403.725 Petition for order of protection -- Venue -- Verified contents -- Concurrent jurisdiction -- Protocols for access and supplemental jurisdiction -- Referral

- (1) A petition for an order of protection may be filed by:
 - (a) A victim of domestic violence and abuse; or
 - (b) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.
- (2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape domestic violence and abuse.
- (3) The petition shall be verified and contain:
 - (a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;
 - (b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;
 - (c) The facts and circumstances which constitute the basis for the petition;
 - (d) The date and place of the marriage of the parties, if applicable; and
 - (e) The names, ages, and addresses of the petitioner's minor children, if applicable.
- (4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers and Commonwealth's or county attorneys.
- (5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.
- (6)
 - (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court and a petition may be filed by a petitioner in either court, except that a petition shall be filed in a family court if one has been established in the county where the petition is filed.
 - (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to orders of protection in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
 - (c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
- (7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an order of protection.
- (8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.

KRS 403.730 Immediate review of petition -- Summons to evidentiary hearing -- Ex parte emergency protective order

- (1) (a) The court shall review a petition for an order of protection immediately upon its filing. If the review indicates that domestic violence and abuse exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.

- (b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.
- (2) (a) If the review under this section also indicates the presence of an immediate and present danger of domestic violence and abuse, the court shall, upon proper motion, issue ex parte an emergency protective order that:
 - 1. Authorizes relief appropriate to the situation utilizing the alternatives set out in KRS 403.740, other than awarding temporary support or counseling;
 - 2. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and
 - 3. Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:
 - a. The petitioner's request is voluntary and not the result of coercion; and
 - b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.
- (b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

KRS 403.735 Hearing on petition for order of protection -- Criteria to assess appropriate relief and sanctions -- Continuance of hearing and emergency protective order

- (1) Prior to or at a hearing on a petition for an order of protection:
 - (a) The court may obtain the respondent's Kentucky criminal and protective order history and utilize that information to assess what relief and which sanctions may protect against danger to the petitioner or other person for whom protection is being sought, with the information so obtained being provided to the parties in accordance with the Rules of Civil Procedure; and
 - (b) If the petitioner or respondent is a minor, the court shall inquire whether the parties attend school in the same school system to assist the court in imposing conditions in the order that have the least disruption in the administration of education to the parties while providing appropriate protection to the petitioner.
- (2) (a) If the adverse party is not present at the hearing ordered pursuant to KRS 403.730 and has not been served, a previously issued emergency protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party before that hearing or a subsequent hearing, the emergency protective order shall remain in place, and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen (14) days of the originally scheduled date for the continued hearing. The court shall repeat the process of continuing the hearing and reissuing a new summons until the adverse party is served in advance of the scheduled hearing. If service has not been made on the respondent at least seventy-two (72) hours prior to the scheduled hearing, the court may continue the hearing no more than fourteen (14) days in the future. In issuing the summons, the court shall simultaneously transmit a copy of the summons or notice of its issuance and provisions to the petitioner.
- (b) The provisions of this section permitting the continuance of an emergency protective order shall be limited to six (6) months from the issuance of the emergency protective order. If the respondent has not been served within that period, the order shall be rescinded without prejudice. Prior to the expiration of the emergency protective order, the court shall provide notice to the petitioner stating that, if the petitioner does not file a new petition, the order shall be rescinded without prejudice.

KRS 403.740 Domestic violence order -- Restrictions -- Temporary child support -- Expiration and reissuance.

(1) Following a hearing ordered under KRS 403.730, if a court finds by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur, the court may issue a domestic violence order:

- (a) Restraining the adverse party from:
 - 1. Committing further acts of domestic violence and abuse;
 - 2. Any unauthorized contact or communication with the petitioner or other person specified by the court;
 - 3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;
 - 4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and
 - 5. Disposing of or damaging any of the property of the parties;
 - (b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, except that the court shall not order the petitioner to take any affirmative action;
 - (c) Directing that either or both of the parties receive counseling services available in the community in domestic violence and abuse cases; and
 - (d) Additionally, if applicable:
 - 1. Directing the adverse party to vacate a residence shared by the parties to the action;
 - 2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, grant temporary custody; and
 - 3. Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary child support.
- (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:
- (a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;
 - (b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;
 - (c) Specifically describe in the order the locations or areas prohibited to the respondent; and
 - (d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.
- (3) When temporary child support is granted under this section, the court shall enter an order detailing how the child support is to be paid and collected. Child support ordered under this section may be enforced utilizing the same procedures as any other child support order.
- (4) A domestic violence order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.

403.745 Duration of emergency protective order and domestic violence order -- Prohibited costs and conditions -- Mutual orders of protection -- Amendment -- Expungement.

- (1) An emergency protective order and a domestic violence order shall become effective and binding on the respondent when the respondent is given notice of the existence and terms of the order by a peace officer or the court or upon personal service of the order, whichever is earlier. A peace officer or court giving notice of an unserved order shall make all reasonable efforts to arrange for the order's personal service upon the respondent. Once effective, a peace officer or the court may enforce the order's terms and act immediately upon their violation.
- (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any filing, hearing, service, or order authorized by or required to implement KRS 403.715 to 403.785.

- (3) A court shall not require mediation, conciliation, or counseling prior to or as a condition of issuing an order of protection.
- (4) Mutual orders of protection may be issued only if:
 - (a) Separate petitions have been filed by both parties; and
 - (b) The orders are written with sufficient specificity to allow any peace officer to identify which party has violated the order.
- (5) Upon proper filing of a motion, either party may seek to amend an order of protection.

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KRS 403.750 Order of protection for family member or member of unmarried couple upon filing of petition or action under KRS Chapter 403

- (1) Any family member or any member of an unmarried couple may file for and receive protection under this chapter from domestic violence and abuse, notwithstanding the existence of or intent to file an action under this chapter by either party.
- (2) (a) Any family member or member of an unmarried couple who files a petition for an order of protection based upon domestic violence or abuse shall make known to the court any custody or divorce actions involving both the petitioner and the respondent that are pending in any court.
- (b) If the petitioner or respondent to an order of protection initiates an action under this chapter, the party initiating the action shall make known to the court the existence and status of any orders of protection, which shall remain effective and enforceable until superseded by order of the court in which the case is filed.
- (3) If a family member or member of an unmarried couple files an action for dissolution of marriage, child custody, or visitation, the court hearing the case shall have jurisdiction to issue an order of protection upon the filing of a verified motion either at the commencement or during the pendency of the action.

KRS 403.7521 Foreign protective orders -- Rebuttable presumption of validity -- Enforcement -- Civil and criminal proceedings mutually exclusive.

- (1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.
- (2) All peace officers shall treat a foreign protective order as a legal document valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an order of protection issued in Kentucky.
- (3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.
- (4) If the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.

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KRS 403.7527 Filing of foreign protective order and affidavit -- Certification by issuing court official -- Entry into Law Information Network of Kentucky

- (1) A copy of a foreign protective order may be filed in the office of the clerk of any court of competent jurisdiction of this state. A foreign protective order so filed shall have the same

effect and shall be enforced in the same manner as an order of protection issued by a court of this state.

- (2) (a) At the time of the filing of the foreign protective order, the person filing the order shall file with the clerk of the court an affidavit on a form prescribed and provided by the Administrative Office of the Courts. The affidavit shall set forth the name, city, county, and state or other jurisdiction of the issuing court. The person shall certify in the affidavit the validity and status of the foreign protective order, and attest to the person's belief that the order has not been amended, rescinded, or superseded by any orders from a court of competent jurisdiction. All foreign protective orders presented with a completed and signed affidavit shall be accepted and filed.
- (b) The affidavit signed by the applicant shall have space where the reviewing judge shall place information necessary to allow the order's entry into the Law Information Network of Kentucky in the same manner as a Kentucky order.
- (3) (a) If the person seeking to file the order presents a copy of the foreign order which is current by the terms of the order and has been certified by the clerk or other authorized officer of the court which issued it, the circuit clerk shall present it to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall not be subject to further verification and shall be accepted as authentic, current, and subject to full faith and credit.
- (b) If the order presented is current by the terms of the order but is not certified in the manner specified in paragraph (a) of this subsection, the circuit clerk shall present the order and the affidavit to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall be subject to full faith and credit in the same manner as a Kentucky order of protection, but shall be subject to verification by the circuit clerk. The order shall be valid for a period of fourteen (14) days and may be renewed once for a period of fourteen (14) days if the circuit clerk has not received a certified copy of the order from the issuing jurisdiction. The clerk shall treat the foreign protective order in the same manner as an order of protection issued pursuant to KRS 403.740, except that no service on the adverse party shall be required pursuant to 18 U.S.C. sec. 2265.
- (c) Upon the filing of an uncertified foreign protective order, the circuit clerk shall, within two (2) business days, contact the issuing court to request a certified copy of the order. If the certified copy of the order is received by the circuit clerk within the initial fourteen (14) day period, the clerk shall cause the information that certification has been received to be entered into the Law Information Network of Kentucky and shall notify the applicant for the order of the fact of its certification. A facsimile copy of a certified foreign protective order shall be grounds for the issuance of an order of protection.
- (d) If the clerk has not received a certified copy of the foreign protective order within ten (10) days, the clerk shall notify the court and the applicant that the order has not been received. The notice to the applicant, on a form prepared by the Administrative Office of the Courts, shall state that the foreign protective order will be extended for another fourteen (14) days, but will be dismissed at the expiration of that time. If the clerk informs the judge in writing that the certified foreign protective order has been requested but has not yet been received, the judge shall extend the foreign protective order for a period of fourteen (14) days. If certification of the foreign protective order is not received within twenty-eight (28) days, the foreign protective order shall expire and shall not be reissued. If the applicant meets the qualifications for the issuance of a Kentucky domestic violence order, the court may, upon proper application and showing of evidence, issue a Kentucky order in accordance with this chapter.
- (4) The right of a person filing a foreign protective order to bring an action to enforce the order instead of proceeding under this chapter remains unimpaired.

KRS 403.7529 Authentication of foreign protective order

- (1) Upon ex parte review of the foreign protective order and the affidavit filed pursuant to KRS 403.7527, and after determining the order is entitled to full faith and credit in this Commonwealth pursuant to 18 U.S.C. sec. 2265, the court shall declare the order to be authenticated and record the finding on the affidavit.
- (2) If the court declares the order to be authenticated, the court shall:
 - (a) Direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with, if applicable; and
 - (b) Order its enforcement in any county of the Commonwealth in the same manner as an domestic violence order of this state issued pursuant to KRS 403.740.
- (3) The clerk shall notify the person who filed the foreign protective order of the decision of the court and provide the person a certified copy of the affidavit declaring the authentication of the order.

KRS 403.7535 Duty to notify court of change in foreign protective order

- (1) A person who has filed a foreign protective order in a court in Kentucky is under a continuing obligation to inform the court of any expiration, vacation, modification, or other change in the order which the person filing the order has received from the issuing foreign court.

- (3) No court in Kentucky and no peace officer in Kentucky shall be expected to enforce a provision of a foreign protective order which has been the subject of any action specified in subsection (1) of this section unless proper notice has been given in accordance with the provisions of this section.

KRS 403.754 Petitioner for protective order may apply for temporary permit to carry concealed deadly weapon – Criteria – Denial of application final – Conversion to concealed carry license – Automated listing of temporary permit holders

- (1) A petitioner for an order of protection granted under KRS 403.715 to 403.785 may apply for a temporary permit to carry a concealed deadly weapon on or about his or her person into those places and under the same conditions as a person holding a carry concealed deadly weapon license issued under KRS 237.110.
- (2) To request a temporary permit authorized by this section, the petitioner shall apply electronically for a license to carry a concealed deadly weapon in the manner set forth in KRS 237.110 and administrative regulation promulgated by the Department of Kentucky State Police, unless the electronic application is unavailable. If the electronic application is unavailable, applications for temporary permits under this section shall not be accepted.
- (3) Prior to the issuance of a temporary permit authorized by this section, the Department of Kentucky State Police, upon receipt of a completed application, application fee, and any documentation required by KRS 237.110 or administrative regulation promulgated by the Department of Kentucky State Police, shall conduct the background check as set forth in KRS 237.110.
- (4) The Department of Kentucky State Police shall issue a temporary permit authorized by this section if the applicant is not disqualified under the standards set forth in KRS 237.110(4)(a) to (h).
- (5) A temporary permit issued under this section shall be valid for forty-five (45) days from the date of issuance and not be subsequently extended or reissued. A temporary permit which has expired shall be void and shall not be valid for any purpose.

- (7) In order to convert the temporary permit issued under this section into a license to carry a concealed deadly weapon issued under KRS 237.110, the applicant shall meet the firearms safety training requirement under KRS 237.110(4) within the forty-five (45) day period the temporary permit is valid. If firearms safety training is not completed within the forty-five (45)

day temporary permit period, a new application for a license to carry a concealed deadly weapon shall be required.

- (8) If the Department of Kentucky State Police denies the application for a temporary permit, that decision shall be final but the applicant's application for a license to carry a concealed deadly license shall continue to be processed and either issued or denied in accordance with KRS 237.110.
- (9) The holder of a permit issued under this section shall carry the permit at all times the permit holder is carrying a concealed firearm or other deadly weapon and shall display the permit upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.

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- (11) Nothing in this section shall authorize the carrying of a concealed deadly weapon by a person prohibited from possessing such a weapon by state or federal law.

KRS 403.761 Amendment of domestic violence order to require participation in global positioning monitoring system -- Cost to be paid by respondent and system operator -- Shortening or vacating of order -- Penalty for violation

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- (6) A respondent who fails to wear, removes, tampers with, or destroys a global positioning monitoring system device in contravention of an order entered under this section shall be guilty of a Class D felony.

KRS 403.763 Violation of order of protection constitutes contempt of court and criminal offense

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- (4) (a) A person is guilty of a violation of an order of protection when he or she intentionally violates the provisions of an order of protection after the person has been served or given notice of the order.
- (b) Violation of an order of protection is a Class A misdemeanor.

KRS 403.785 Duties of law enforcement agencies

- (1) A court issuing an order of protection shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.
- (2) When a law enforcement officer has reason to suspect that a person has been the victim of domestic violence and abuse, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:
 - (a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;
 - (b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and
 - (c) Advising the victim immediately of the rights available to them, including the provisions of this chapter.
- (3) Orders of protection shall be enforced in any county of the Commonwealth.
- (4) Officers acting in good faith under this section shall be immune from criminal and civil liability.
- (5) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Health and Family Services, Department for Community Based Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.

**KRS Chapter 456
CIVIL ORDERS OF PROTECTION
(Selected Sections)**

KRS 456.010 Definitions for chapter

As used in this chapter:

- (1) **"Dating relationship"** means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:
 - (a) Declarations of romantic interest;
 - (b) The relationship was characterized by the expectation of affection;
 - (c) Attendance at social outings together as a couple;
 - (d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;
 - (e) The length and recency of the relationship; and
 - (f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed;
- (2) **"Dating violence and abuse"** means physical injury, serious physical injury, stalking, sexual assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault occurring between persons who are or have been in a dating relationship;
- (3) **"Foreign protective order"** means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was not issued on the basis of domestic violence and abuse;
- (4) **"Global positioning monitoring system"** means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
- (5) **"Order of protection"** means any interpersonal protective order, including those issued on a temporary basis, and includes a foreign protective order;
- (6) **"Sexual assault"** refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020;
- (7) **"Stalking"** refers to conduct prohibited as stalking under KRS 508.140 or 508.150; and
- (8) **"Substantial violation"** means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

KRS 456.030 Petition for interpersonal protective order

- (1) A petition for an interpersonal protective order may be filed by:
 - (a) A victim of dating violence and abuse;
 - (b) A victim of stalking;
 - (c) A victim of sexual assault; or
 - (d) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.
- (2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape dating violence and abuse, stalking, or sexual assault.
- (3) The petition shall be verified and contain:
 - (a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;
 - (b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;

- (c) The facts and circumstances which constitute the basis for the petition; and
- (d) The names, ages, and addresses of the petitioner's minor children, if applicable.
- (4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers and Commonwealth's or county attorneys.
- (5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.
- (6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court.
- (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to interpersonal protective orders in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
- (c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
- (7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an interpersonal protective order.
- (8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.

KRS 456.040 Review of petition for interpersonal protective order – Temporary interpersonal protective order

- (1) (a) The court shall review a petition for an interpersonal protective order immediately upon its filing. If the review indicates that dating violence and abuse, stalking, or sexual assault exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.
- (b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.
- (2) (a) If the review under this section also indicates the presence of an immediate and present danger of dating violence and abuse, sexual assault, or stalking, the court shall, upon proper motion, issue ex parte a temporary interpersonal protective order that:
 - 1. Authorizes relief appropriate to the situation utilizing the alternatives set out in KRS 456.060;
 - 2. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and
 - 3. Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:
 - a. The petitioner's request is voluntary and not the result of coercion; and
 - b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.
- (b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

KRS 456.050 Hearing on petition for interpersonal protective order

- (1) Prior to or at a hearing on a petition for an interpersonal protective order:
 - (a) The court may obtain the respondent's Kentucky criminal and protective order history and utilize that information to assess what relief and which sanctions may protect against danger to the petitioner or other person for whom protection is being sought, with the information so obtained being provided to the parties in accordance with the Rules of Civil Procedure; and
 - (b) If the petitioner or respondent is a minor, the court shall inquire whether the parties attend school in the same school system to assist the court in imposing conditions in the order that have the least disruption in the administration of education to the parties while providing appropriate protection to the petitioner.
- (2) (a) If the adverse party is not present at the hearing ordered pursuant to KRS 456.040 and has not been served, a previously issued temporary interpersonal protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party before that hearing or a subsequent hearing, the temporary interpersonal protective order shall remain in place, and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen (14) days of the originally scheduled date for the continued hearing. The court shall repeat the process of continuing the hearing and reissuing a new summons until the adverse party is served in advance of the scheduled hearing. If service has not been made on the respondent at least seventy-two (72) hours prior to the scheduled hearing, the court may continue the hearing no more than fourteen (14) days in the future. In issuing the summons, the court shall simultaneously transmit a copy of the summons or notice of its issuance and provisions to the petitioner.
- (b) The provisions of this section permitting the continuance of an interpersonal protective order shall be limited to six (6) months from the issuance of the temporary interpersonal protective order. If the respondent has not been served within that period, the order shall be rescinded without prejudice. Prior to the expiration of the temporary interpersonal protective order, the court shall provide notice to the petitioner stating that, if the petitioner does not file a new petition, the order shall be rescinded without prejudice.

KRS 456.060 Ruling on petition for interpersonal protective order – Duration of order

- (1) Following a hearing ordered under KRS 456.040, if a court finds by a preponderance of the evidence that dating violence and abuse, sexual assault, or stalking has occurred and may again occur, the court may issue an interpersonal protective order:
 - (a) Restraining the adverse party from:
 - 1. Committing further acts of dating violence and abuse, stalking, or sexual assault;
 - 2. Any unauthorized contact or communication with the petitioner or other person specified by the court;
 - 3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;
 - 4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and
 - 5. Disposing of or damaging any of the property of the parties;
 - (b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of dating violence and abuse, stalking, or sexual assault, except that the court shall not order the petitioner to take any affirmative action; and
 - (c) Directing that either or both of the parties receive counseling services available in the community in dating violence and abuse cases.
- (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:
 - (a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;

- (b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;
 - (c) Specifically describe in the order the locations or areas prohibited to the respondent; and
 - (d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.
- (3) An interpersonal protective order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.

KRS 456.070 When protective order becomes effective and binding on respondent --- Mutual protective orders --- Petition hearing testimony later admissible only for impeachment purposes – Interpersonal protective order intake center

- (1) A temporary or ordinary interpersonal protective order shall become effective and binding on the respondent when the respondent is given notice of the existence and terms of the order by a peace officer or the court or upon personal service of the order, whichever is earlier. A peace officer or court giving notice of an unserved order shall make all reasonable efforts to arrange for the order's personal service upon the respondent. Once effective, a peace officer or the court may enforce the order's terms and act immediately upon their violation.

* * * * *

- (4) Mutual protective orders may be issued only if:
- (a) Separate petitions have been filed by both parties; and
 - (b) The orders are written with sufficient specificity to allow any peace officer to identify which party has violated the order.
- (5) Upon proper filing of a motion, either party may seek to amend an interpersonal protective order.

KRS 456.090 Law enforcement to assist protective order petitioner and victim of dating violence and abuse, sexual assault, or stalking – Statewide enforcement – Civil and criminal immunity

- (1) A court issuing an interpersonal protective order shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.
- (2) When a law enforcement officer has reason to suspect that a person has been the victim of dating violence and abuse, sexual assault, or stalking, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:
- (a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;
 - (b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and
 - (c) Advising the victim immediately of the rights available to them, including the provisions of this chapter.
- (3) Orders of protection shall be enforced in any county of the Commonwealth.
- (4) Officers acting in good faith under this chapter shall be immune from criminal and civil liability.

KRS 456.100 Amendment of interpersonal protective order to require participation in global positioning monitoring system

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- (6) A respondent who fails to wear, removes, tampers with, or destroys a global positioning monitoring system device in contravention of an order entered under this section shall be guilty of a Class D felony.

KRS 456.120 Foreign protective orders

- (1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.
- (2) All peace officers shall treat a foreign protective order as a legal document valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an order of protection issued in Kentucky.
- (3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.
- (4) If the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.
- (5) Civil proceedings and criminal proceedings for violation of a foreign protective order for the same violation of the protective order shall be mutually exclusive. Once either proceeding has been initiated, the other shall not be undertaken, regardless of the outcome of the original proceeding.

KRS 456.180 Violation of order of protection

- (1) Violation of the terms or conditions of an order of protection after the person has been served or given notice of the order shall constitute contempt of court and a criminal offense under this section. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.
- (2) (a) Court proceedings for contempt of court for violation of an order of protection shall be held in the county where the order was issued or filed.
(b) Court proceedings for a criminal violation of an order of protection shall follow the rules of venue applicable to criminal cases generally.
- (3) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of an order of protection.
- (4) (a) A person is guilty of a violation of an order of protection when he or she intentionally violates the provisions of an interpersonal protective order after the person has been served or given notice of the order.
(b) Violation of an order of protection is a Class A misdemeanor.

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